

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Wassim Abedrabbo	Team: Squad #9	CCRB Case #: 201905165	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/04/2019 4:07 PM	Location of Incident: Southern Boulevard and Xavier Way	Precinct: 48	18 Mo. SOL 12/4/2020	EO SOL 7/21/2021	
Date/Time CV Reported Tue, 06/04/2019 7:20 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/13/2019 11:23 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ariel Torres	03337	961381	048 PCT
2. POM Amado Vargas	03604	955621	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Ariel Torres	Abuse: Police Officer Ariel Torres threatened to arrest § 87(2)(b)	
B.POM Amado Vargas	Abuse: Police Officer Amado Vargas attempted to forcibly remove § 87(2)(b) to the hospital.	
C.POM Ariel Torres	Abuse: Police Officer Ariel Torres attempted to forcibly remove § 87(2)(b) to the hospital.	

Case Summary

On June 4, 2019, § 87(2)(b) § 87(2)(b) filed this complaint with IAB; which was received at the CCRB on June 13, 2019, under log number 2019-22350.

On June 4, 2019, at approximately 4:07 p.m., § 87(2)(b) was approached by Police Officer Ariel Torres and Police Officer Amado Vargas, both of the 48th Precinct, after attempting to cross through the Bronx Fordham University campus at the Southern Boulevard and Xavier Way entrance. PO Vargas and PO Torres told § 87(2)(b) that if he did not leave the area, he would be taken to an ambulance to be evaluated on his mental health. While speaking with § 87(2)(b) PO Torres told him that he could be arrested for trespassing (**Allegation A: Abuse of Authority – Threat of Arrest**, § 87(2)(g)). Ultimately, § 87(2)(b) was placed in handcuffs by both officers, taken to an ambulance and evaluated, and then released after EMTs determined that he was okay (**Allegations B and C: Abuse of Authority – Attempted Forcible Removal to the Hospital**, § 87(2)(g)).

Video was obtained by the investigation from § 87(2)(b) (**Board Review 01**) and from the officers' BWC cameras (**Board Review 02**). § 87(2)(b) was not arrested, and he did not receive a summons in relation to the incident in question.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Ariel Torres threatened to arrest § 87(2)(b).

It is undisputed that § 87(2)(b) attempted to go onto the Fordham University campus multiple times, including after being told by campus security that he could not go onto the grounds. It is also undisputed that PO Torres told § 87(2)(b) that he could be arrested for trespassing if he did stop trying to go onto campus grounds and leave the vicinity of the university.

NYS Penal Law 140.05 (Board Review 06). A person is guilty of trespass when they knowingly enter or remain unlawfully in or upon a premise.

§ 87(2)(b), § 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Amado Vargas attempted to forcibly remove § 87(2)(b) § 87(2)(b) to the hospital.

Allegation (C) Abuse of Authority: Police Officer Ariel Torres attempted to forcibly remove § 87(2)(b) § 87(2)(b) to the hospital.

It is undisputed that PO Vargas and PO Torres responded to Southern Boulevard and Xavier Way in response to a call from University security after § 87(2)(b) attempted to enter private campus property. It is also undisputed that both officers told § 87(2)(b) that he would be taken to an ambulance for a medical evaluation if he did not leave the vicinity of that entrance to the University (**Board Review 01**). Finally, it is undisputed that § 87(2)(b) was placed in handcuffs, taken to an ambulance where he was evaluated by EMTs, and then released moments later after the EMTs determined that he was mentally stable.

Both PO Vargas and PO Torres stated that they explained multiple times to § 87(2)(b) that he could not go onto the University campus because he had no reason to be there. Given that § 87(2)(b) did not appear to understand that he could not go onto the University campus, PO Vargas believed that he may be a danger to himself because he could have “trespass[ed] into the wrong location, or [did] something along those lines” that would have gotten him “into something” (**Board Review 03**). PO Torres believed that § 87(2)(b) was “not in the right frame of mind” because he did not comprehend that he could not go onto the University campus and did not have any reason to believe § 87(2)(b) was emotionally disturbed beyond that (**Board Review 04**).

Neither officer stated or explained that they learned or believed § 87(2)(b) threatened or presented a threat to a third party. Both officers stated that the purpose of placing § 87(2)(b) in handcuffs was to take him to the ambulance for evaluation.

Patrol Guide Procedure 221-13 (Board Review 05). When an officer reasonably believes that a person is apparently mentally ill or emotionally disturbed and is aware of behaviors by that individual that may cause harm to themselves or others, the officer is allowed to take that person into protective custody and remove them to a hospital for evaluation.

§ 87(2)(g), § 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 07**).
- PO Torres has been a member of service for four years and this is the first CCRV complaint to which he has been a subject (see officer history).
- PO Vargas has been a member of service for six years and has been a subject in five other CCRB complaints and 10 other allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of November 22, 2019, the NYC Officer of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (**Board Review 08**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**Board Review 09**).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date